

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

LESLIE PAUL HOWARTH,	:
Plaintiff	:
v.	: Civil Action No. 05-03J
ROBERT MRKICH, M.D.,	:
Defendant	:

MEMORANDUM ORDER

This matter was referred to Magistrate Judge Keith A. Pesto for proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and subsections 3 and 4 of Local Rule 72.1 for Magistrate Judges.

The Magistrate Judge filed a Report and Recommendation on July 18, 2005, docket no. 11, recommending that the defendant's motion to dismiss, docket no. 3, be granted in part and denied in part, and that the matter be dismissed without prejudice to proceeding with the overlapping claim made at Howarth v. Mrkich, C.A. No. 04-315J.

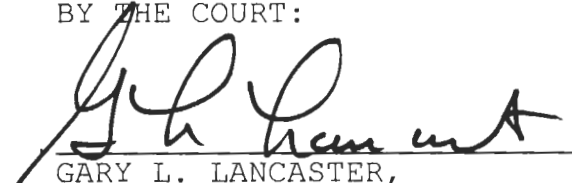
The parties were notified that pursuant to 28 U.S.C. § 636(b)(1), they had ten days to serve and file written objections to the Report and Recommendation. No objections have been filed, and the time to do so has expired.

After review of the record of this matter, together with the Report and Recommendation, and noting the lack of timely objections thereto, the following order is entered:

AND NOW, this 20th day of August, 2005, it is

ORDERED that the defendant's Title II, Section 1983, and Section 1985 claims are dismissed with prejudice. The complaint is dismissed without prejudice to raising the remaining claim, that plaintiff suffered a retaliatory denial of service on December 20, 2004, at Howarth v. Mrkich, C.A. No. 04-315J. The Report and Recommendation is adopted as the opinion of the Court. The Clerk shall mark this matter closed.

BY THE COURT:


GARY L. LANCASTER,
UNITED STATES DISTRICT JUDGE

cc:

Leslie Paul Howarth, Ph.D.
211 Bentwood Avenue
Johnstown, PA 15904-1333

Maureen McQuillan, Esquire
206 Main Street
Johnstown, PA 15901